

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ATTORNEY: RIKER DANZIG
SCHERER HYLAND
& PERRETTI LLP

SOVEREIGN BANK

x

-against-

NUBIAN REALTY, LLC, NUBIAN PROPERTIES, LLC,
RICHELIEU W. DENNIS, NYEMA S. TUBMAN, DIANE
NICHOLAS, NUBIAN HERITAGE DIRECT LLC,
NUBIAN HERITAGE OF HARLEM LLC, THE
NATIONAL BLACK THEATRE WORKSHOP INC.,
HARLEM APPLE, LLC, NEW YORK CITY TRANSIT
ADJUDICATION BUREAU, STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE, NEW
YORK CITY DEPARTMENT OF TRANSPORTATION,
NEW YORK CITY ENVIRONMENTAL CONTROL
BOARD, NEW YORK CITY DEPARTMENT OF
FINANCE, THYSSENKRUPP ELEVATOR COMPANY
and JOHN DOE # 1 through JOHN DOE # 10 inclusive,

Plaintiff(s),

Index No. 10-8967 (NRB)

Filing Date: November 30, 2010

AFFIDAVIT OF NON-SERVICE

Defendant(s), x

The undersigned certifies under penalty of perjury:

I received: SUMMONS, VERIFIED COMPLAINT, AND DISCLOSURE STATEMENT with Index Number 10-8967 (NRB) Filed on November 30, 2010 and have been unable to effect service upon

NICHOLAS VARIETY, INC., S/H/A "JOHN DOE # 6"
2035 Fifth Avenue
New York, NY 10035

The following attempts at service were made:

February 03, 2011 @ 02:39 P.M., the business NICHOLAS VARIETY, INC., S/H/A "JOHN DOE # 6" was closed and no longer operating business at the location, 2035 Fifth Avenue, New York, NY 10035. The process server Victor Rawner confirmed these details are true and correct, but also noted that there are two locations for the above business (NICHOLAS VARIETY, INC.) and the location at 5 East 125th Street, New York, NY 10035 is still open and conducting business as usual. At this time service has been discontinued.

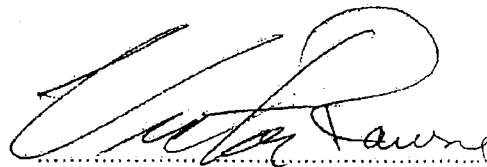
I declare under penalty of perjury that the foregoing is true and correct.

Sworn to before me on the

14 day of February, 2011

Notary Public

MELISSA HAINES
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HA6165654
Qualified in Suffolk County
My Commission Expires May 14, 2011


PRINT NAME BENEATH SIGNATURE
VICTOR RAWNER
License # 1192048